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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,409	12/31/1998	RICHARD C. FENWICK JR.	ONCO-002	3722

7590

10/02/2002

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EXAMINER

VU, NGOC K

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 10/02/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

V

PR4

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/224,409	FENWICK JR. ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ngoc K. Vu	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because the abstract is too long. The length of the abstract should be limited to 150 words. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-2 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 4, it is not clear what the term "the other" referred to.

Claim 22 recites the term "said ACD devices" which includes **plural ACD** devices that are not defined previously. Claim 20 only defines a **single ACD** audiovisual serving device.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-10, 13, 16, 17 and 20-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Stoel et al (US 5,905,942).

Regarding claim 1, Stoel discloses a method for providing data communications network access to a user (see figures 1-3B) comprising: providing the user with an audiovisual display monitor, displaying the audiovisual display on the audiovisual display monitor (44, see figure 2); allocating an assignable computing device (ACD) to the user in response to the user's request for data communications network access (allocating the service sources, i.e., VOD movie services, interactive games, or multimedia services in response to the subscriber's request); providing at least one input device, receiving signals from the at least one input device at the ACD (for example, sources 76, 78, 80 – see figure 3A-3B); creating a connection between the ACD on the data communication network, preparing an audiovisual display based on signals received from the data communications network with the ACD (UHC 70 manages the operation of several other devices of headend 12, together with communication tasks, for delivery of VOD programming and interactive services to subscriber's terminal); converting said received signals to signals compatible with the data communications network (modulating the signals), and sending said compatible signals to the data communications network (see col. 6, lines 63-67, col. 8, lines 46-51; col. 10, lines 44-48).

Regarding claim 2, Stoel discloses converting said audiovisual display to a video signal, modulating said video signal onto an RF carrier having a specific channel assignment (see col. 2, lines 53-56; col. 10, lines 44-48); transmitting said RF carrier to the audiovisual display monitor, and tuning the audiovisual display monitor to said

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specific channel so is to demodulate the RF carrier, receive the video signal and display the audiovisual display (see col. 3, lines 22-27 and 35-45, figure 2).

Regarding claim 3, Stoel discloses a method for presenting program material from a plurality of program sources (including VOD service, interactive games service, and other interactive video service) to users using a host computing device (12) and allocating tasks among a plurality of audiovisual serving devices (for example, VCPs 142A-142D), the method comprising: responding to a user request to order program material by selecting one of a plurality of ACDs (selecting one of the services, i.e., source 80 VOD system) to generate a menu listing available program material, receiving a program selection from the user over a Room Communication Subsystem (RCS) (selection of services are achieved by interaction between the subscriber and headend 12 through interactive menu displayed on the subscriber's television 44 wherein menu is a list of available services), presenting the user with the menu over a RCS (headend 12 controls which subscribers will have access to interactive menus, VOD, games, interactive services by controlling the interdiction field units 28); responding to the selection of program material by selecting one of plurality of audiovisual serving devices to present the program material, and presenting the program material to the user over the RCS (for instance, subscriber selects a VOD movie. UHC 70 selects the particular VCP to be played, based upon keystrokes received from the subscriber during an interactive menu session, and transmits the selected movie to the subscriber via unit 28) (see figures 1-3B and col. 8, lines 51-54; col. 2, lines 18-23; col. 9, lines 59-63).

Regarding claims 4-6, Stoel discloses the interactive port associated with selected service be assigned by headend 12 to subscriber unit 16 (see col. 4-5, lines 66-1).

Regarding claims 7-10, Stoel discloses providing a menu to subscriber listing of available material (the system must include the task of update of the availability of the material in order to present the available services) and assigning a particular source, i.e., VCP, to delivery the requested movie to subscriber (see col. 3, lines 36-40; col. 4-5, lines 62-1; col. 8, lines 46-56).

Regarding claim 13, Stoel discloses presenting the user with a broadcast channel (RF channel) (see col. 5, lines 1-2).

Regarding claims 16-17, Stoel discloses providing a connection between controller 70 with game platform 76, multimedia platform 78 to communicate to each other (see figures 3A-3B).

Regarding claim 20, Stoel discloses an apparatus (see figures 1-3B) for presenting program material from a plurality of program sources (76, 78, 80) to users using a host computing device (12) and plurality of audiovisual serving device (for instance, VCPs 142A-142D), comprising: a programming subsystem (for instance, one of the program sources, 80); a Room Communication Subsystem (RCS) (28); a Site Management Subsystem (SMS) (70); the RCS connecting a plurality of user terminals to the system (16); the programming subsystem including a plurality of audiovisual serving devices (VCPs) communicating with the user terminals over the RCS (VCPs communicate with the subscriber's terminal 16 via unit 28); and SMS assigning an Assignable Computing Device (ACD) audiovisual service device (assigning a particular VCP) to communicate with a user terminal in response to an initial communication from a user terminal (in response to subscriber's selection) (see col. 9, lines 59-66; figures 1-3B and col. 8, lines 51-54; col. 2, lines 18-23).

Regarding claims 21-25, Stoel discloses providing a menu to subscriber listing of available material (the system must include the tasks of keep track and update of the

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availability of the material in order to present the available services) and assigning a particular source, i.e., VCP, to delivery the requested movie to subscriber (see col. 3, lines 36-40; col. 4-5, lines 62-1; col. 8, lines 46-56).

Regarding claim 28, Stoel discloses presenting the user with a broadcast channel (RF channel) (see col. 5, lines 1-2).

Regarding claims 31-35, Stoel disclose an Interactive Programming System (IPS) for presenting interactive program material, for instance, video games and other interactive video services such as Internet (see col. 1, lines 59-63; col. 9, lines 33-39).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11, 12, 14, 15, 26, 27, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel et al. (US 5,905,942).

Regarding claims 11, 12, 14 and 15, Stoel discloses providing a menu for selecting a VOD program or interactive service. Stoel further discloses subscriber system control including the option of requiring a PIN based on the rating of the movie. This allows a parent to control the categories and individual movies available to children in the apartment (see summary; col. 5, lines 45-49). Stoel fails to disclose creating a set of user preferences and presenting the broadcast channel reflects the set of user preferences. Official Notice is taken that creating or obtaining the viewer preferences for providing information about the viewing history of the identified users is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify

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Stoel by creating a set of user data listing viewer preferences in order to allows the headend or provider to know what material or programming is appropriate for these users based on the viewer preferences information.

Claims 26, 27, 29 and 30 recite the similar limitations of claims 11, 12, 14 and 15, therefore, the same rejection is applied for claims 26, 27, 29 and 30 as addressed above.

9. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel et al. (US 5,905,942) as applied to claim 3 above, and further in view of Ohno et al. (US 5,781,734).

Regarding claim 18, Stoel discloses a plurality of audiovisual serving device (for instance, VCPs 142A-142D) as video sources for providing video signals to the subscriber (see col. 9, lines 48-66). Stoel fails to disclose the feature of polling the audiovisual service device for status. However, Ohno discloses a main processor 105 included a memory 106 stores a STATUS file indicating the operation status of the video sources. The main processor 105 performs the system management including polling and allocation of the video sources (see col. 3, lines 37-45). Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by polling the audiovisual serving device for status in order to perform management of the video sources and to prevent the error of distributing video signals.

Regarding claim 19, Stoel discloses providing S-control signals to system 80 based upon serial signals received from UHC 70 of the host computing device 12. S-Control is the communication code that tells a VCPs what to do when it receives a certain signal. Messages that can be relayed from UHC 70 through video switch 82 to the VCPs include VCR-like functions such as stop, play, turn on, or turn off (see col. 10, lines 35-43).



**Conclusion**


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoarty et al. (US 6,305,020) discloses a system manager for use with an interactive cable system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

NV  
September 30, 2002

  
ANDREW FAILE  
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